

Ser. No. 09/735,193

## Remarks

Claim 3 was pending in the application. Claim 3 was rejected. No claims were merely objected to and no claims were allowed. By the foregoing amendment, claim 3 is canceled, no claims are amended, and claims 4-13 are added. No new matter is presented.

Due to scanning by the PTO, the undersigned has only recently been able to have access to some documents from the parent application. Some non-patent literature documents remain unavailable and are not available from the prior attorney of record. Accordingly in any further communication from the PTO, applicant requests the courtesy of a resending of any prior non-patent documents used in any rejection.

By the foregoing amendment, the specification has been amended for improved readability. A first paragraph has been added to identify the parent application consistent with current practice. PTO records (i.e., PAIR) already identify the 35USC 120 benefit claim (apparently consistent with prior practice for making the benefit claim). However, it appears that such claim should be corrected to "continuation" instead of CIP (see hand written notation on transmittal in IFW). Such correction is requested. To the extent required, this may be considered a petition.

Claims Rejections-35 U.S.C. 103

Claim 3 was "rejected under 35 U.S.C 103(a) as being unpatentable over Product Alert (6/9/97) in view of Vonderhorst et al. (6,035,610) as further evidenced by the USDA application (and accompanying wrapper) or vice versa, i.e., Vonderhorst et al. and the USDA application in view of Product Alert, both further in view of applicant's admission of the prior art, and further in view of Snack World (10/88) and Baking and Snack (2/94)." Office action, page 3. Applicant respectfully traverses the rejection.

The Office action quite helpfully noted a claim interpretation as "readable on an outer package containing chips, with or without enclosing [a] smaller package containing the chips, and a cup of dip." In indicating the reasons for providing applicant with a non-final Office action, the Office action noted a prior erroneous interpretation of an asserted prior art reference as one where "one big [sic] held the loose chips and a cup of salsa." Office action, page 2. Together with

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the non-finality of the Office action, these statements are believed helpful in the presentation of allowable subject matter.

Accordingly, new claim 4 is former claim 3 revised in format for improved readability and in substance to identify the chips as loose in the package.

Support for claims 8&9 is found in FIG. 1 and paragraph 0014.

Support for claims 12&13 is found in paragraph 0015, 1<sup>st</sup> sentence.

Support for the other added claims is found in former claim 3.

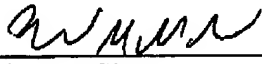
The subject matter of claim 4 and the claims depending therefrom is not suggested by the prior art. Vonderhorst et al. lists a broad range of exemplary prior art to their invention. Their invention relates to delivery of "premium items" from a bandolier into main product package. If anything, Vonderhorst et al., therefore teach away from the claimed invention which utilizes a soufflé cup as opposed to a bandoliered item. Although known as a container for various condiments, there is no suggestion to use a soufflé cup in the claimed combination. The other cited references appear only cumulative to Vonderhorst et al. and are subject to the same teaching away.

Although the age of a reference does not, alone, render it inapplicable, it is worth note that the Vonderhorst et al. background material and other references relate to teachings dating back several years at least. If the present invention had been obvious, there is no reason why it would not have been made by another prior to the present effective filing date and reflected at least in non-patent literature of the type already cited.

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Accordingly, Applicant submits that claims 4-18 are in condition for allowance. Please charge any fees (including for any required extension of time for which Applicant hereby petitions) or deficiencies or credit any overpayment to our Deposit Account 02-0184.

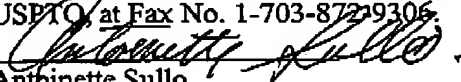
Respectfully submitted,

By   
William B. Slate  
Attorney for Applicant  
Reg. No.: 37,238

Telephone: 203-777-6628  
Telefax: 203-865-0297

Date: August 18, 2005

I hereby certify that this correspondence is being faxed this 18<sup>th</sup> day of August, 2005 to the USPTO, at Fax No. 1-703-872-9306.

  
Antoinette Sullo

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